



## STATE BOARD OF EQUALIZATION STAFF LEGISLATIVE BILL ANALYSIS

Date Amended:	<b>03/27/00</b>	Bill No:	<b>SB 1701</b>
Tax:	<b>Sales and Use</b>	Author:	<b>Johnson</b>
Board Position:	<b>Support</b>	Related Bills:	<b>AB 2345 (Ducheny) AB 2348 (Ducheny) AB 2602 (Battin)</b>

### **BILL SUMMARY:**

This bill would provide a 5 percent state sales and use tax exemption for the purchase of textbooks by public schools and the purchase of any book by a K-12 public school student provided the book is offered by a school-sanctioned book fair, book club, or reading program.

### **ANALYSIS:**

#### Current Law:

Under existing law, the sale of books are subject to the sales or use tax to the same extent as the sale of any other tangible personal property not specifically exempted by law. With the exception of high school yearbooks and catalogs, tax applies to the sale of any book to elementary, high school, as well as college students. Tax also applies to the sale of any book to a library, to the state, and to any political subdivision of the state.

Under existing law, a base state and local sales and use tax rate of 7 1/4 percent is imposed as noted below:

- 5 percent state tax allocated to the state's General Fund (Section 6051, 6051.3, 6201 and 6201.3).
- 1/2 percent state tax allocated to the Local Revenue Fund which is dedicated to local governments for program realignment (Section 6051.2 and 6201.2).
- 1/2 percent state tax allocated to the Local Public Safety Fund which is dedicated to local governments to fund public safety services (Sec. 35 of Article XIII of the California Constitution).
- 1 1/4 percent Bradley-Burns Uniform Local Sales and Use Tax which is allocated to cities and counties (Part 1.5, commencing with Section 7200).
- 1/8 to 1 1/4 percent Transactions and Use Tax which is allocated to special taxing jurisdictions in various counties and cities within the state (Part 1.6, commencing with Section 7252).

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Proposed Law:

This bill would add Section 6361.3 to the Sales and Use Tax Law to provide a partial sales and use tax exemption (5 percent) for the sale and use of any textbook purchased by a public school and any book purchased by a K-12 public school student, if the book is offered by a school-sanctioned book fair, book club, or reading program.

This bill would specify that the exemption shall *not* apply to the Bradley-Burns Uniform Local Sales and Use Tax, the Transactions or Use Tax, the taxes levied pursuant to Section 6051.2 and 6201.2 of the Revenue and Taxation Code, and the tax levied pursuant to Section 35 of Article XIII of the California Constitution.

The bill would become effective immediately, but would become operative on the first day of the calendar quarter commencing more than 90 days after the date the bill is enacted.

Background:

Several previous measures with similar provisions have been introduced. Assembly Bill 2405 (Miller), introduced in the 1996 Legislative Session, contained language that would have provided a sales and use tax exemption for sales of textbooks to private schools. The sales and use tax provisions were amended from the bill prior to passage out of the Assembly Revenue and Taxation Committee. The Board was neutral, point out problems on Assembly Bill 2405.

Assembly Bill 2051 (Firestone), introduced in the 1998 Legislative Session, contained language that would have provided a partial sales and use tax exemption (6 percent) for sales of college textbooks to students. Assembly Bill 2051 failed passage in the Assembly Revenue and Taxation Committee. The Board was neutral on Assembly Bill 2051.

Assembly Bill 490 (Ducheny), as amended during the 2000 Legislative Session, contained language providing a partial sales and use tax exemption (6 percent) for sales of college textbooks to students. The bill failed passage from its house of origin before it was presented to the Board for a position.

Three more bills have been introduced this session. Assembly Bill 2345 (Ducheny) contains language providing a partial sales and use tax exemption (5 percent) for the sale of any textbook that is purchased by a public school or school district, the sale of any book purchased by a K-12 public school student from a school-sanctioned book fair, book club, or reading program, and the sale of any test materials purchased by the state or a K-12 public school district that are necessary to administer student performance, diagnostic, or achievement tests. Assembly Bill 2348 (Ducheny) contains language providing a sales and use tax exemption for sales of college textbooks to students. Assembly Bill 2602 (Battin) contains language providing a sales and use tax

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exemption for the sale of any tangible personal property purchased by a public or private school or community college district provided the gross receipts from the sale of that tangible personal property equals \$1,000 or more and the purchase is made with a purchase order. The Board has voted to support AB 2345 and AB 2348. The Board has adopted a neutral position on AB 2602.

#### COMMENTS:

1. Sponsor and Purpose. According to the author's office, who is also the sponsor of the bill, this bill is intended to create a partial sales and use tax exemption for sales of textbooks to public schools. The author's office indicates that important learning tools, such as public school textbooks, should be exempt from tax.
2. Summary of Amendments. Amendments in this version of the bill add an exemption for sales of books to K-12 public school students when sold by a school-sanctioned book fair, book club, or reading program.
3. Partial exemptions create confusion. This bill would only provide a partial sales and use tax exemption (5 percent) for the sale of books. This partial tax exemption would add an additional burden on book retailers, who, in order to reimburse themselves for the remaining tax due, would be required to calculate the remaining applicable tax due on each sale of a qualifying book to a public school or public school student. For every partial exemption created in the sales and use tax law, the return preparation and processing function becomes more complex and results in an increase in errors.
4. Partial tax exemptions are difficult to administer. Due to the method used to report partial tax exemptions, any return containing a claimed partial tax exemption must be processed manually for the proper allocation of local taxes. Current law provides for two partial tax exemptions. The current partial tax exemptions apply to sales of manufacturing equipment and teleproduction equipment. The number of returns affected by the current partial tax exemptions are minor. However, the provisions of this bill could cause a potentially significant increase in the number of returns filed containing a partial tax exemption.
5. What is a public school? The term "public school" could include not only K-12 schools, but also could include public colleges and universities. This bill would provide an exemption for sales of textbooks to public schools. Generally, K-12 public schools purchase the textbooks for use in the classroom, but public colleges and universities do not (the student must purchase their own textbook). However, the exemption could apply to any textbook purchased by a public college or university for use by the instructor or for use in the library. Is the exemption intended to cover sales of textbooks to public colleges or universities, or is it intended to be limited to sales of textbooks to K-12 public schools?
6. Technical amendment suggested. The proposed sales and use tax exemption would apply to the sale of any book purchased by a K-12 public school student, if the book is *offered* by a school-sanctioned book fair, book club, or reading program. It is recommended that the word "offered" be replaced with the word "sold." Discussions with the author's office indicate the intent is to provide an exemption for

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sales of books to students through the school-sanctioned book fair, book club, or reading program only. However, the literal interpretation of this section would provide an exemption for the sale of any book to a student, regardless of who the seller is, provided the same book is *offered* for sale by the school-sanctioned book fair, book club, or reading program. The author's office indicated they used the word "offered" to cover situations where the book club sells the books to the teachers, who in turn, sell the books to the students. However, it has been the Board's position that the teachers are not sellers in these situations, but rather, they are agents of the book club, who is regarded as the retailer.

7. Proposed exemption would apply to sales by some retailers, but not others. The proposed exemption would apply to the purchase of any book by a K-12 public school student, provided the book is sold by a school-sanctioned book fair, book club, or reading program. Therefore, if a student were to purchase a book from Scholastic, the exemption would apply, but if the student were to purchase the same book from Tower Books or Borders, the exemption would not apply. This could create an unfair advantage for book clubs since their sales would qualify for a partial exemption, while sales by other retailers could not.
8. Proposed exemption would place an added record-keeping burden on book retailers. The law provides that for the purpose of the proper administration of the sales and use tax and to prevent evasion of the sales tax, it shall be presumed that all gross receipts are subject to the tax until the contrary is established. In order for book retailers to rebut this presumption, they would be required to establish to the satisfaction of the Board that the books they sell, for which a partial exemption is claimed under the provisions of this measure, are not subject to the 5 percent tax. Consequently, a textbook retailer would be required to obtain and retain documentation that the textbook is sold to a public school. Book sales by a school-sanctioned book fair, book club, or reading program would be required to be supported by documentation that the book was sold to a K-12 public school student. However, most students in elementary grade levels do not possess student identification cards which could be used as documentation to support the exemption. Therefore, the necessary documentation to support the claimed exemption may be difficult to obtain by the seller.
9. What about private schools? Private schools and private school students also purchase books for use as learning tools. Expanding the exemption to include sales of books to private schools and private school students may warrant consideration.

#### **COST ESTIMATE:**

Because of the partial exemption, administrative costs would be incurred in computer programming, return revisions return analysis and return processing. It is anticipated that one BTR position in the Return Analysis Section would be needed for verification of claimed deductions. Additional funding for overtime may be required for the Local Revenue and Allocation Section for manual processing of the returns containing the partial exemption, depending on the number of returns filed. A detailed estimate of these costs is pending.

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**REVENUE ESTIMATE:**

According to the California Department of Education, the total expenditures on textbooks for public schools K-12 is \$342.6 million.

Based upon information provided by companies involved in book sales at schools, the total expenditures in California for books sold at school book fairs, book clubs, and reading programs to K-12 public school students in 1999 was an estimated \$51 million.

Revenue Summary

The revenue impact from exempting the \$342.6 million in sales of textbooks and \$51 million in book sales from the state sales and use tax would be as follows:

		<u>Revenue Effect</u>
State Loss (5%)	Textbooks	\$17.1 million
	Books	<u>\$ 2.6 million</u>
Total		<u>\$19.7 million</u>

Analysis prepared by:	Bradley E. Miller	445-6662	04/07/00
Revenue estimate by:	Timothy S. Wahl	445-0840	
Contact:	Margaret S. Shedd	322-2376	
mcc			

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